

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Ivan Magdaleno,)
Petitioner,) C/A No.: 7:06-cr-00703-GRA-2
v.)
United States of America,)
Respondent.)

)

ORDER
(Written Opinion)

This matter comes before the Court on Petitioner's Motion, filed January 21, 2010, titled "Request to Reopen the Judgment Due to a 'Unique Circumstance.'" In substance, the Motion is a second request for this Court to reconsider its order, filed November 9, 2009, which denied Petitioner's motion to enforce a plea agreement with the Government under Federal Rule of Criminal Procedure 35(b).

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leake*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

Petitioner's Motion asks the Court to revisit its analysis of Petitioner's claims. After a review of the record, including the assertions made by Petitioner in his

recent Motion, this Court finds that its prior decision was and is correct as a matter of law. Consequently, this Court must deny Plaintiff's motion.

IT IS THEREFORE ORDERED that Petitioner's Motion is DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

January 26, 2010
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Petitioner has the right to appeal this Order within fourteen (14) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal**.